



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

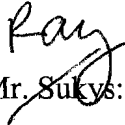
REGION IX

75 Hawthorne Street
San Francisco, CA 94105-3901

December 31, 2008

Mr. Ray Sukys
U.S. Department of Transportation
Federal Transit Administration, Region IX
201 Mission Street, Suite 1650
San Francisco, CA 94105

Subject: Draft Environmental Impact Statement for the Berkeley/Albany Ferry
Terminal Study, Alameda County, California (CEQ #20080445)


Dear Mr. Sukys:

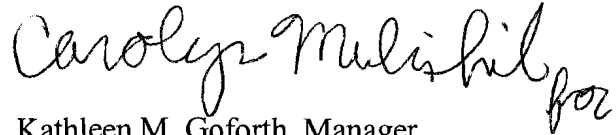
The Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1508), and our NEPA review authority under Section 309 of the Clean Air Act. Our detailed comments are enclosed.

EPA is highly supportive of the project objective to provide an additional transit mode for transbay travel, both to reduce highway congestion and improve air quality, and for use in emergencies where other modes may not be available. We commend the Federal Transit Administration (FTA) and the San Francisco Water Emergency Transportation Authority (WETA) on including minimization of impacts to natural resources as one of its project objectives. We look forward to the successful implementation of this project.

We do, however, have concerns with resource impacts if either Alternative C or D is chosen as the locally preferred alternative. Our concerns are described in our attached detailed comments. We have additional comments on impacts to biological resources, dredging, transit service coordination, and climate change. For these reasons, EPA has rated this Draft Environmental Impact Statement (DEIS) EC-2, *Environmental Concerns, Insufficient Information*. Please see the attached *Rating Factors* for a description of our rating system.

We appreciate the opportunity to review this DEIS. When the Final EIS is released for public review, please send two copies to the address above (mail code: CED-2). If you have any questions, please contact Carolyn Mulvihill of my staff at 415-947-3554 or carolyn.mulvihill@epa.gov.

Sincerely,

A handwritten signature in black ink that reads "Carolyn Mulvihill" followed by a stylized "for" written vertically.

Kathleen M. Goforth, Manager
Environmental Review Office (CED-2)
Communities and Ecosystems Division

Enclosures:
Detailed Comments
Summary of Rating Definitions

cc: John Sindzinski, WETA

**EPA DETAILED COMMENTS ON THE DRAFT ENVIRONMENTAL IMPACT STATEMENT
FOR THE BERKELEY/ALBANY FERRY TERMINAL STUDY, DECEMBER 31, 2008**

Locally Preferred Alternative

The Draft Environmental Impact Statement (DEIS) analyzes Alternatives A-D, as well as a No-Action Alternative, and states that a Locally Preferred Alternative (LPA) will be chosen prior to completion of the Final Environmental Impact Statement (FEIS). The Environmental Protection Agency (EPA) has concerns regarding resource impacts if either Alternative C or D is chosen as the LPA. First, both of these alternatives would be located in the Eastshore State Park, which provides habitat for a variety of wildlife. Secondly, these alternatives would have direct and indirect impacts on eelgrass beds, which are considered "special aquatic sites" under Section 404 of the Clean Water Act. Dredging for Alternative C would result in direct removal of eel grass. Indirect impacts, such as increased turbidity from dredging activities, would result from both of these alternatives. The DEIS states that indirect impacts from dredging would be temporary; however, since maintenance dredging will be required, EPA believes that these impacts would be on-going and would result in significant cumulative impacts to the eelgrass beds.

Compensatory mitigation for the potential impacts of Alternatives C and D is proposed in the form of creation of offsite eelgrass beds. The DEIS notes, however, that very little eelgrass mitigation has been done in the San Francisco Bay and creation of eelgrass beds has been difficult. Alternative C would impact an existing Caltrans eelgrass mitigation site. The DEIS describes these impacts as "less than significant after successful implementation of proposed mitigation measures." EPA believes that, given the potential impacts and the low probability of successful compensatory mitigation, these impacts should be described as significant and unavoidable.

Recommendation:

- Due to the significant potential impacts to resources, EPA recommends the San Francisco Water Emergency Transportation Authority (WETA) choose Alternative A or B as the LPA.

Biological Resources

While Alternative A or B would have fewer impacts on biological resources than Alternatives C or D, EPA has concerns about impacts to resources from these alternatives.

The DEIS only briefly discusses the indirect impacts of the breakwater to be constructed under Alternative B, including a statement that the breakwater would reduce wave action on nearby habitats to less than ambient levels. EPA is concerned with the potential impacts of the breakwater on water circulation or wave reflection and subsequently on shoreline habitat areas and wildlife.

Recommendation:

- If Alternative B is selected as the LPA, the FEIS should include a discussion of potential impacts of the breakwater on water circulation and wave reflection, and subsequently on shoreline habitat areas and wildlife. The discussion should also address whether the breakwater would cause wave deflection into the fishing pier or other boat circulation areas, and whether a breakwater parallel to the shore or at an angle to the shore would provide the best protection and minimize impacts. The conclusions of the Draft Technical Memorandum cited in the DEIS should be discussed.

Impacts to the benthic community from all alternatives are described as temporary. However, if maintenance dredging results in disturbance on a regular basis, these impacts should be considered permanent.

Recommendation:

- Include information in the FEIS on the expected frequency of maintenance dredging, the potential impacts of that ongoing activity on benthic communities, and how those impacts would be mitigated.

EPA is interested in the status of resource agency consultation, especially regarding incidental take permits, the impacts of pile-driving on fish and marine mammals, and impacts on native oysters in the Berkeley Marina.

Recommendation:

- Include in the FEIS an updated discussion of resource agency consultation, including discussions of any required incidental take permits, discussions with the National Marine Fisheries Service and/or California Department of Fish and Game on impacts of pile-driving on fish and marine mammals, and, if Alternative A is selected as the LPA, impacts to native oysters.

Dredging

The DEIS states that WETA plans to dispose dredged material at the San Francisco Deep Ocean Disposal Site (SF-DODS). This material must be managed in accordance with the goals of the San Francisco Bay Long Term Management Strategy for Dredging (LTMS), which call for a reduction of in-Bay disposal and an increase of beneficial reuse of dredged material. If there is a practicable beneficial reuse alternative available, the LTMS agencies would require WETA to use this disposal alternative rather than the SF-DODS. In-Bay disposal of material would not be allowed in accordance with the LTMS management plan.

Recommendation:

- WETA should explore beneficial reuse alternatives for disposal of dredged material from construction. Only if no practicable reuse alternatives are available can material be disposed at SF-DODS. Disposal alternatives should be discussed in the FEIS.

The DEIS states that maintenance dredging is anticipated every 2 to 3 years. Detailed information on the expected frequency and volumes of this dredging is not provided. More specific information could be developed by comparison with other projects in the area, particularly for the Berkeley Marina, which already conducts maintenance dredging. In addition, the DEIS does not include proposed disposal locations for dredged material from maintenance dredging. Future disposal of this material will have to be managed in accordance with the LTMS.

As stated above, LTMS goals call for a significant reduction of in-Bay disposal and an increase in beneficial reuse. In-Bay disposal limits have already been reduced substantially, and they will continue to be reduced under the LTMS management plan. EPA and other LTMS agencies will require that WETA prepare an alternatives analysis for future disposal, and in-Bay disposal will not be allowed if the agencies determine that any practicable alternatives exist. For these reasons, WETA should assume that in-Bay disposal of material from maintenance dredging will not be allowed.

Recommendation:

- The FEIS should include detailed information regarding the expected frequency and volumes of maintenance dredging. Proposed locations for disposal of dredged material should be included, noting the LTMS requirements stated above.

Coordination with other Transit Services

EPA commends WETA on its efforts to provide an additional transit mode for transbay travel, which will help reduce highway congestion and improve air quality. We also support the planned use of lower-emission diesel fuel and emission control technology on the vessels. In order to maximize the congestion reduction and air quality benefits, EPA offers the following recommendations.

Recommendations:

- WETA should consult with AC Transit and other local transit providers to coordinate local transit service with planned ferry and ferry shuttle service.
- WETA should consult with the City of Berkeley to ensure that bicycle and pedestrian improvements are made to provide safe and convenient access to the terminal.
- WETA should commit to providing bicycle storage space on vessels.

Greenhouse Gases and Climate Change

A number of studies specific to California have indicated the potential for significant environmental impacts as a result of changing temperatures and rising sea levels.¹ The Global Warming Solutions Act of 2006 and Executive Order S-3-05 recognize the impact that climate change can have within California and provide direction for future reductions of greenhouse gases. While the DEIS provides a qualitative discussion of how the project would comply with greenhouse gas reduction strategies, we recommend that the FEIS discuss the potential impacts of climate change on the project.

Recommendation:

- The FEIS should include a discussion of the potential impacts of climate change on the project and identify specific mitigation measures needed to 1) protect the project from the effects of climate change, 2) reduce the project's greenhouse gas emissions, and/or 3) promote pollution prevention or environmental stewardship.

¹ For example: Our Changing Climate: Assessing the Risks to California, A Summary Report from the California Climate Change Center, July 2006.

**U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action***

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.